



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2012-0253; FRL-9682-5]

**Approval of Air Quality Implementation Plan; Arizona; Attainment
Plan for 1997 8-hour Ozone Standard**

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a state implementation plan (SIP) revision submitted by the State of Arizona on June 13, 2007, to demonstrate attainment of the 1997 8-hour ozone national ambient air quality standards (NAAQS) in the Phoenix-Mesa nonattainment area by June 15, 2009. This action was proposed in the Federal Register on April 11, 2012. EPA is approving the submitted SIP revision based on our determination that it contains all of the SIP elements required for ozone nonattainment areas under title I, part D, subpart 1 of the Clean Air Act (CAA) for the 1997 8-hour ozone NAAQS.

DATES: This rule is effective on [Insert date 30 days from the date of publication in the Federal Register].

ADDRESSES: EPA has established docket number EPA-R09-OAR-2012-0253 for this action. Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> or in hard copy at EPA Region IX, 75

Hawthorne Street, San Francisco, California. While all documents in the docket are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be available in either location (e.g., confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the FOR FURTHER INFORMATION CONTACT section.

FOR FURTHER INFORMATION CONTACT: Anita Lee, Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region IX, (415) 972-3958, lee.anita@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. Proposed Action

On April 11, 2012 (70 FR 21690), EPA proposed to approve the "Eight-Hour Ozone Plan for the Maricopa Nonattainment Area" (2007 Ozone Plan) submitted as a SIP revision by the Arizona Department of Environmental Quality (ADEQ) on June 13, 2007. We proposed to approve the 2007 Ozone Plan based on our determination that it contains all of the plan elements required

for ozone nonattainment areas under title I, part D, subpart 1 of the CAA, including the demonstration of reasonably available control measures (RACM), reasonable further progress (RFP), emission inventories, transportation conformity motor vehicle emission budgets for 2008, and contingency measures to be implemented if the Phoenix-Mesa nonattainment area fails to attain by June 15, 2009.

II. Public Comments and EPA Responses

EPA provided a 30-day public comment period on our proposed action. This comment period ended on May 11, 2012. We received no comments.

III. EPA Action

Under CAA section 110(k)(3), EPA is fully approving the 2007 Ozone Plan for Phoenix-Mesa based on our determination that it meets all applicable requirements under subpart 1 of part D, title I of the CAA for the 1997 8-hour ozone NAAQS, as follows:

1. The 2002 base year emission inventory as meeting the requirements of CAA section 172(c)(3) and 40 CFR 51.915;
2. The reasonably available control measures demonstration as meeting the requirements of CAA section 172(c)(1) and 40 CFR 51.912(d);
3. The reasonable further progress demonstration as meeting the requirements of CAA section 172(c)(2) and 40 CFR 51.910;

4. The attainment demonstration as meeting the requirements of CAA section 172(c)(1) and 40 CFR 51.908;

5. The contingency measures for failure to make RFP or to attain as meeting the requirements of CAA section 172(c)(9); and

6. The motor vehicle emission budgets for the attainment year of 2008, which are derived from the attainment demonstration, as meeting the requirements of CAA section 176(c) and 40 CFR part 93, subpart A.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for

reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Ozone, Nitrogen Dioxide, Volatile
Organic Compounds.

Authority: 42 U.S.C. 7401 et seq.

Dated: May 25, 2012 Jared Blumenfeld,
Regional Administrator, EPA Region IX

Part 52, Chapter I, Title 40 of the Code of Federal
Regulations is amended as follows:

PART 52 [AMENDED]

1. The authority citation for Part 52 continues to read as

follows:

AUTHORITY: 42 U.S.C. 7401 et seq.

Subpart D - Arizona

2. Section 52.120 is amended by adding paragraph (c)(149) to read as follows:

§52.120 Identification of plan.

* * * * *

(c) * * *

(149) The following plan was submitted on June 13, 2007 by the Governor's designee.

(i) [Reserved]

(ii) *Additional Materials.* (A) *Arizona Department of Environmental Quality.* (1) Letter dated June 13, 2007 from Stephen A. Owens, Director, ADEQ, to Wayne Nastri, Regional Administrator, United States Environmental Protection Agency, Region IX.

(2) Eight-Hour Ozone Plan for the Maricopa Nonattainment Area, dated June 2007, including Appendices, Volumes One and Two.

[FR Doc. 2012-13817 Filed 06/12/2012 at 8:45 am;
Publication Date: 06/13/2012]